

Appeal from decision of the Alaska State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer AA-49045.

Affirmed.

1. Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases:
Noncompetitive Leases

An over-the-counter, noncompetitive oil and gas lease offer must be rejected when the record discloses that the land applied for has properly been leased to a senior offeror.

APPEARANCES: Weston B. Andrews, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

On September 7, 1983, Weston B. Andrews filed a noncompetitive offer to lease sec. 28, T. 3 S., R. 2 E., Copper River Meridian, Alaska, for oil and gas, AA-49045. His offer was, however, rejected by the Alaska State Office, Bureau of Land Management (BLM), on February 29, 1984, because a prior over-the-counter offer, AA-48807, filed July 1, 1983, by Alaska Capital Corporation was the basis for an oil and gas lease to sec. 28 which issued on October 18, 1983. In his statement of reasons appellant disputes as a matter of fact the correctness of the decision rejecting his over-the-counter offer. His position is based upon the existence of a case history analysis dated August 23, 1983, furnished to him by BLM, reporting current over-the-counter lease offers for T. 3 S., R. 2 E., Copper River Meridian. This case history analysis fails to show any pending offer for sec. 28. Because the analysis, which is in the form of a computer printout sheet, shows that over-the-counter offer AA-48807 which was filed for several sections in T. 3 S., R. 2 E., fails to include any reference to sec. 28, appellant concludes there could have been no pending offer to lease sec. 28 in AA-48807 as late as August 23, 1983. Presumably, therefore, assuming the printout report was correct, this condition continued so far as application AA-48807 was concerned, so as to permit appellant to make a valid prior offer on September 7.

[1] There is, however, no support for this argument in fact. BLM records establish that an over-the-counter offer from Alaska Capital Corporation was filed of record with BLM on July 1, 1983, seeking to lease, inter alia, secs. 25 through 29, inclusive, in T. 3 S., R. 2 E., Copper River

Meridian. Examination of the case file and the case history analysis demonstrates that the information furnished by the printout on August 23, 1983, was incomplete, since it failed to show the fact that sec. 28, and several other sections sought to be leased by offer AA-48807, though not listed in the analysis, were, in fact, included in the offer made by Alaska Capital Corporation on July 1. Prior Departmental decisions establish that this circumstance is not a defect which will oust the prior valid application of Alaska Capital Corporation, however. See Paul S. Coupey, 64 IBLA 146 (1982). The later preparation by BLM of an incomplete or incorrect abstract of an otherwise valid over-the-counter offer to lease does not void the offer.

[1] The general rule concerning noncompetitive offers to lease is that a lease must be issued to the first-qualified offeror. See 30 U.S.C. § 226(c) (1982); Udall v. Tallman, 380 U.S. 1 (1965). As a result, a junior offer, such as appellant's, must be rejected where it seeks to lease land included in a prior offer. See Irvin Wall, 70 IBLA 183, 90 I.D. 3 (1983). The logic of this rule is explained in Irvin Wall, supra at 192, 90 I.D. at 9, where the Board's opinion observes, in a different context, that, by making an over-the-counter offer a lease applicant has obtained a "measure of control over the acreage embraced in his offer. By filing his application he has obtained priority and has precluded anyone else from obtaining a lease until there has been some disposition of his own application."

That is the situation here. The fact that appellant may have obtained an erroneous impression from an incomplete review of BLM records does not alter the fact that there was, in this case, an application for lease of sec. 28 pending at the time appellant made his offer. That prior over-the-counter offer, AA-48807, was properly adjudicated first. It was determined that Alaska Capital Corporation was entitled to lease sec. 28, and a lease issued as a result. That determination is not now subject to attack for the reason given by appellant, that an erroneous case history analysis was prepared for release through the computer, which indicated sec. 28 was open for leasing after July 1983. See Paul S. Coupey, supra.

Pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Alaska State Office is affirmed.

Franklin D. Arness
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Will A. Irwin
Administrative Judge